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CHANDIGARH ADMINISTRATION

DEPARTMENT OF MEDICAL EDUCATION & RESEARCH

Notification

The 13th March, 2020

No. 14243.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India read with Govt. of India, Ministry of Home Affairs, notification bearing No. SO. 3267 dated 01.11.1966, the Administrator, Union Territory, Chandigarh hereby makes the following rules further to amend the Government Medical College and Hospital, Chandigarh, Group-'C' (Telephone Operator), (Non-Ministerial), Recruitment Rules-2002, 2015 namely :—

1. (1) **Short title and commencement.**—(i) These rules may be called the Government Medical College and Hospital, Chandigarh, Group-'C' (Telephone Operator), (Non-Ministerial) (2nd amendment) Recruitment Rules, 2020.

(ii) They shall come into force on the date of their publication in the official gazette.

2. In the Schedule appended to Govt. Medical College & Hospital, Chandigarh Group 'C' (Non-Ministerial) Recruitment Rules-2015, in respect of the post of Telephone Operator :—

(i) Under Column No. 6 for the existing entries under heading "Age for direct recruitment" the following shall be substituted, namely :—

Between 18 years and 37 years

(relaxable for Govt. Servants upto 5 years in accordance with the instructions issued by the Chandigarh Administration from time-to-time.

(ii) Under Column No. 7 for the existing entries under heading "Educational and other qualifications required for Direct recruits" the following shall be substituted, namely :—

No change in educational qualification.

ICT SKILL COURSE ESSENTIALLY REQUIRED:

The candidates will submit the certificates of ICT skills Course on Computer Course (CCC)-80 hours from a government recognized institution

OR

A reputed institution which is an ISO 9001 certified

OR

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Department of Electronics Accreditation of Computer Course (DOEACC) of Govt. of India

OR

From National Institute of Electronics and Information Technology (NIELIT) and its authorized institutions at the time of their appointment.

Note.—The candidates who have certificates/ Diploma/Bachelor's OR Master's Degree in Computer Science from any recognized Institution/ University shall be exempted from ICT Skills course.

- (ii) Under Column No. 9 for the existing entries under heading "Period of probation" the following shall be substituted, namely :—

Three years

ARUN KUMAR GUPTA, (IAS),

Principal Secretary,
Medical Education & Research,
Chandigarh Administration

CHANDIGARH ADMINISTRATION

DEPARTMENT OF MEDICAL EDUCATION & RESEARCH

Notification

The 13th March, 2020

No. 14244.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India read with Govt. of India, Ministry of Home Affairs, notification bearing No. SO. 3267 dated 01.11.1966, the Administrator, Union Territory, Chandigarh hereby makes the following rules further to amend the Government Medical College and Hospital, Chandigarh, Group-'C' (Senior Physiotherapist), (Non-Ministerial), Recruitment Rules-2002, 2014 namely:—

1. (1) **Short title and commencement.**—(i) These rules may be called the Government Medical College and Hospital, Chandigarh, Group-'C' (Senior Physiotherapist), (Non-Ministerial) (2nd amendment) Recruitment Rules, 2020.

(ii) They shall come into force on the date of their publication in the official gazette.

2. In the Schedule appended to Govt. Medical College and Hospital, Chandigarh Group 'C' (Non-Ministerial) Recruitment Rules-2014, in respect of the post of Senior Physiotherapist :—

- (i) Under Column No. 6 for the existing entries under heading "Age for direct recruitment" the following shall be substituted, namely :—

Not exceeding 37 years.

(Relaxable for Government Servants up to 5 years in accordance with the instructions issued by the Chandigarh Administration.)

Note.—The crucial date of determining the age limit is first day of January of the calendar year.

- (ii) Under Column No. 7 for the existing entries under heading "Educational and other qualifications required for Direct recruits" the following shall be substituted, namely :—

No change in educational qualification.

ICT SKILL COURSE ESSENTIALLY REQUIRED :

The candidates will submit the certificates of ICT skills Course on Computer Course (CCC)-80 hours from a government recognized institution.

OR

A reputed institution which is an ISO 9001 certified

OR

Department of Electronics Accreditation of Computer Course (DOEACC) of Govt. of India

OR

From National Institute of Electronics and Information Technology (NIELIT) and its authorized institutions at the time of their appointment.

Note.—The candidates who have certificates/ Diploma/ Bachelor's OR Master's Degree in Computer Science from any recognized Institution/ University shall be exempted from ICT Skills course.

- (ii) Under Column No. 9 for the existing entries under heading "Period of probation" the following shall be substituted, namely :—

Three years

- (iii) Under Column No. 12 for the existing entries under heading "If a Departmental Promotion Committee exists, what is its composition" the following shall be substituted, namely :—

- | | | |
|--------------------------------------|----|----------|
| 1. Director Principal, GMCH | .. | Chairman |
| 2. Additional Director (Admn.), GMCH | .. | Member |
| 3. Medical Superintendent, GMCH | .. | Member |
| 4. Concerned HOD | .. | Member |

ARUN KUMAR GUPTA, (IAS),
Principal Secretary,
Medical Education & Research,
Chandigarh Administration

CHANDIGARH ADMINISTRATION**DEPARTMENT OF MEDICAL EDUCATION & RESEARCH****Notification**

The 13th March, 2020

No. 14245.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India read with Govt. of India, Ministry of Home Affairs, notification bearing No. SO. 3267 dated 01.11.1966, the Administrator, Union Territory, Chandigarh hereby makes the following rules further to amend the Government Medical College and Hospital, Chandigarh, Group-'C' (Photographer), (Non-Ministerial), Recruitment Rules-2002, 2014 namely :—

1. (1) **Short title and commencement.**—(i) These rules may be called the Government Medical College and Hospital, Chandigarh, Group-'C' (Photographer), (Non-Ministerial) (2nd amendment) Recruitment Rules, 2020.

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(ii) They shall come into force on the date of their publication in the official gazette.

2. In the Schedule appended to the Government Medical College and Hospital, Chandigarh Group 'C' (Non-Ministerial) Recruitment Rules-2014, in respect of the post of Photographer :—

(i) Under Column No. 6 for the existing entries under heading "Age for direct recruitment" the following shall be substituted, namely :—

Between 18 years and 37 years.

(Relaxable for Government Servants up to 5 years in accordance with the instructions issued by the Chandigarh Administration.)

(ii) Under Column No. 7 for the existing entries under heading "Educational and other qualifications required for Direct recruits" the following shall be substituted, namely :—

No change in educational qualification.

ICT SKILL COURSE ESSENTIALLY REQUIRED :

The candidates will submit the certificates of ICT skills Course on Computer Course (CCC)-80 hours from a government recognized institution

OR

A reputed institution which is an ISO 9001 certified

OR

Department of Electronics Accreditation of Computer Course (DOEACC) of Govt. of India

OR

From National Institute of Electronics and Information Technology (NIELIT) and its authorized institutions at the time of their appointment.

Note.—The candidates who have certificates/ Diploma/ Bachelor's OR Master's Degree in Computer Science from any recognized Institution/ University shall be exempted from ICT Skills course.

(ii) Under Column No. 9 for the existing entries under heading "Period of probation" the following shall be substituted, namely :—

Three years

ARUN KUMAR GUPTA, (IAS),

Principal Secretary,
Medical Education & Research,
Chandigarh Administration

CHANDIGARH ADMINISTRATION

DEPARTMENT OF MEDICAL EDUCATION & RESEARCH

Notification

The 13th March, 2020

No. 14246.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India read with Govt. of India, Ministry of Home Affairs, notification bearing No. SO. 3267 dated 01.11.1966, the Administrator, Union Territory, Chandigarh hereby makes the following rules further to

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amend the Government Medical College and Hospital, Chandigarh, Group-'C' (Assistant Librarian, Library Assistant and Library Restorer), (Non-Ministerial), Recruitment Rules-2002, 2015 namely :—

1. (1) **Short title and commencement.**—(i) These rules may be called the Government Medical College and Hospital, Chandigarh, Group-'C' (Assistant Librarian, Library Assistant and Library Restorer), (Non-Ministerial) (2nd amendment) Recruitment Rules, 2020.

(ii) They shall come into force on the date of their publication in the official gazette.

2. In the Schedule appended to the Government Medical College and Hospital, Chandigarh Group 'C' (Non-Ministerial) Recruitment Rules-2015, in respect of the post of Assistant Librarian, Library Assistant and Library Restorer :—

(I) ASSISTANT LIBRARIAN :

(i) Under Column No. 6 for the existing entries under heading "Age limit for direct recruits" the following shall be substituted, namely :—

Between 18 years and 37 years

(Relaxable for Govt. Servants upto 5 years in accordance with the instructions issued by the Chandigarh Administration from time-to-time).

(ii) Under Column No. 7 for the existing entries under heading "Educational and other qualifications required for Direct recruits" the following shall be substituted, namely :—

No change in educational qualification.

ICT SKILL COURSE ESSENTIALLY REQUIRED :

The candidates will submit the certificates of ICT skills Course on Computer Course (CCC)-80 hours from a government recognized institution

OR

A reputed institution which is an ISO 9001 certified

OR

Department of Electronics Accreditation of Computer Course (DOEACC) of Govt. of India

OR

From National Institute of Electronics and Information Technology (NIELIT) and its authorized institutions at the time of their appointment.

Note.—The candidates who have certificates/ Diploma/ Bachelor's OR Master's Degree in Computer Science from any recognized Institution/ University shall be exempted from ICT Skills course.

(iii) Under Column No. 11 for the existing entries under heading "in case of recruitment by promotion/deputation/ absorption, grades from which promotion/ deputation/ absorption to be made" the following shall be substituted, namely :—

No change in educational qualification.

ICT SKILL COURSE ESSENTIALLY REQUIRED :

Note.—(i) The officer/officials (Group A, B, C & D shall undergo for ICT skills course for promotion/ increments as per instructions issued by this Department *vide* letter No. 28/69-IH(12)-2018/16687, dated 08.08.2018.

- (ii) The employees who have crossed the age of 55 years are exempted from undergoing the ICT skills training.
- (iii) The candidates who have certificates/ Diploma/ Bachelor's OR Master's Degree in Computer Science from any recognized Institution/ University shall be exempted from ICT Skills course.
- (iv) The faculties of Computer Science & Engineering as well as employees who already have certificates/ diploma in Computer Skills are also exempted from undergoing the said ICT skills training.
- (iv) Under Column No. 12 for the existing entries under heading "If a Departmental Promotion Committee exists, what is its composition" the following shall be substituted, namely :—

1.	Director Principal, GMCH	..	Chairman
2.	Additional Director (Admn.), GMCH	..	Member
3.	Medical Superintendent, GMCH	..	Member
4.	Concerned HOD	..	Member

II LIBRARY ASSISTANT :

- (i) Under Column No. 12 for the existing entries under heading "If a Departmental Promotion Committee exists, what is its composition" the following shall be substituted, namely :—

1.	Director Principal, GMCH	..	Chairman
2.	Additional Director (Admn.), GMCH	..	Member
3.	Medical Superintendent, GMCH	..	Member
4.	Concerned HOD	..	Member

III LIBRARY RESTORER :

- (i) Under Column No. 6 for the existing entries under heading "Age limit for direct recruits" the following shall be substituted, namely :—

Between 18 years and 37 years

(Relaxable for Govt. Servants upto 5 years in accordance with the instructions issued by the Chandigarh Administration from time-to-time.

- (ii) Under Column No. 7 for the existing entries under heading "Educational and other qualifications required for Direct recruits" the following shall be substituted, namely :—

No change in educational qualification.

ICT SKILL COURSE ESSENTIALLY REQUIRED :

The candidates will submit the certificates of ICT skills Course on Computer Course (CCC)- 80 hours from a government recognized institution

OR

A reputed institution which is an ISO 9001 certified

OR

Department of Electronics Accreditation of Computer Course (DOEACC) of Govt. of India

OR

From National Institute of Electronics and Information Technology (NIELIT) and its authorized institutions at the time of their appointment.

Note.—The candidates who have certificates/ Diploma/ Bachelor's OR Master's Degree in Computer Science from any recognized Institution/ University shall be exempted from ICT Skills course.

- (ii) Under Column No. 9 for the existing entries under heading "Period of probation" the following shall be substituted, namely :—

Three years

ARUN KUMAR GUPTA, (IAS),

Principal Secretary,
Medical Education & Research,
Chandigarh Administration

CHANDIGARH ADMINISTRATION

DEPARTMENT OF MEDICAL EDUCATION & RESEARCH

Notification

The 13th March, 2020

No. 14247.— In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India read with Govt. of India, Ministry of Home Affairs, notification bearing No. SO. 3267 dated 01.11.1966, the Administrator, Union Territory, Chandigarh hereby makes the following rules further to amend the Government Medical College and Hospital, Chandigarh, Group-'C' (Dental Technician), (Non-Ministerial), Recruitment Rules-2002, 2014 namely :—

1. (1) **Short title and commencement.**—(i) These rules may be called the Government Medical College and Hospital, Chandigarh, Group-'C' (Dental Technician), (Non-Ministerial) (2nd amendment) Recruitment Rules, 2020.

(ii) They shall come into force on the date of their publication in the official gazette.

2. In the Schedule appended to Govt. Medical College and Hospital, Chandigarh Group 'C' (Non-Ministerial) Recruitment Rules-2014, in respect of the post of Dental Technician :—

- (i) Under Column No. 6 for the existing entries under heading "Age limit for direct recruits" the following shall be substituted, namely :—

Between 18 years and 37 years.

(Relaxable for Government Servants up to 5 years in accordance with the instructions issued by the Chandigarh Administration.)

- (ii) Under Column No. 7 for the existing entries under heading "Educational and other qualifications required for Direct recruits" the following shall be substituted, namely :—

No change in educational qualification.

ICT SKILL COURSE ESSENTIALLY REQUIRED :

The candidates will submit the certificates of ICT skills Course on Computer Course (CCC)-80 hours from a government recognized institution

OR

A reputed institution which is an ISO 9001 certified

OR

Department of Electronics Accreditation of Computer Course (DOEACC) of Govt. of India

OR

From National Institute of Electronics and Information Technology (NIELIT) and its authorized institutions at the time of their appointment.

Note.—The candidates who have certificates/Diploma/Bachelor's OR Master's Degree in Computer Science from any recognized Institution/ University shall be exempted from ICT Skills course.

- (ii) Under Column No. 9 for the existing entries under heading "Period of probation, if any" the following shall be substituted, namely :—

Three years

ARUN KUMAR GUPTA, (IAS)

Principal Secretary,
Medical Education & Research,
Chandigarh Administration

CHANDIGARH ADMINISTRATION**DEPARTMENT OF MEDICAL EDUCATION & RESEARCH****Notification**

The 13th March, 2020

No. 14248.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India read with Govt. of India, Ministry of Home Affairs, notification bearing No. SO. 3267 dated 01.11.1966, the Administrator, Union Territory, Chandigarh hereby makes the following rules further to amend the Government Medical College and Hospital, Chandigarh, Group-'C' (Audiologist-cum-Speech Therapist), (Non-Ministerial), Recruitment Rules-2002, 2014 namely :—

1. (1) **Short title and commencement.**—(i) These rules may be called the Government Medical College and Hospital, Chandigarh, Group-'C' (Audiologist-cum-Speech Therapist), (Non-Ministerial) (2nd amendment) Recruitment Rules, 2020.

(ii) They shall come into force on the date of their publication in the official gazette.

2. In the Schedule appended to Govt. Medical College and Hospital, Chandigarh Group 'C' (Non-Ministerial) Recruitment Rules-2014, in respect of the post of Audiologist-cum-Speech Therapist :—

- (i) Under Column No. 6 for the existing entries under heading "Age limit for direct recruitment" the following shall be substituted, namely :—

Between 18 years to 37 years.

(Relaxable for Government Servants up to 5 years in accordance with the instructions issued by the Chandigarh Administration.)

- (ii) Under Column No. 7 for the existing entries under heading "Educational and other qualifications required for Direct recruits" the following shall be substituted, namely :—

No change in educational qualification.

ICT SKILL COURSE ESSENTIALLY REQUIRED :

The candidates will submit the certificates of ICT skills Course on Computer Course (CCC)- 80 hours from a government recognized institution

OR

A reputed institution which is an ISO 9001 certified

OR

Department of Electronics Accreditation of Computer Course (DOEACC) of Govt. of India

OR

From National Institute of Electronics and Information Technology (NIELIT) and its authorized institutions at the time of their appointment.

Note.—The candidates who have certificates/ Diploma/ Bachelor's OR Master's Degree in Computer Science from any recognized Institution/ University shall be exempted from ICT Skills course.

- (ii) Under Column No. 9 for the existing entries under heading "Period of probation" the following shall be substituted, namely :—

Three years

ARUN KUMAR GUPTA, (IAS),
Principal Secretary,
Medical Education & Research,
Chandigarh Administration

CHANDIGARH ADMINISTRATION

DEPARTMENT OF MEDICAL EDUCATION & RESEARCH

Notification

The 13th March, 2020

No. 14355.—In exercise of the powers conferred by the proviso to article 309 of the Constitution of India read with Govt. of India, Ministry of Home Affairs, notification bearing No. S.O. 3267 dated 01.11.1966, the Administrator, Union Territory, Chandigarh is pleased to make the following rules and further to amend the changes in Government Medical College and Hospital, Chandigarh, Staff Nurse, Group-'C' (Non-Gazetted, Non-Ministerial), in Govt. Medical College & Hospital, Chandigarh, Recruitment Rules-2002, 2011 & 2018 respectively :—

1. (1) **Short title and commencement.**—(i) These rules may be called the Government Medical College and Hospital, Chandigarh, Group-'C' (Staff Nurse), (Non-Ministerial) (3rd amendment) Recruitment Rules, 2020.

(ii) They shall come into force on the date of their publication in the official gazette.

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2. In the said rules, the amendments of the changes for the post of Staff Nurse shown at Sr. No. 31 in the Schedule appended to Government Medical College and Hospital, Chandigarh, under Group 'C' (Non-Gazetted, Non-Ministerial) post Recruitment Rules, 2020 :—

- (i) Under Column No. 7 for the existing entries under heading "Educational and other qualifications required for Direct recruits" the following shall be substituted, namely :—

No change in educational qualification.

ICT SKILL COURSE ESSENTIALLY REQUIRED :

The candidates will submit the certificates of ICT skills Course on Computer Course (CCC)-80 hours from a government recognized institution.

OR

A reputed institution which is an ISO 9001 certified

OR

Department of Electronics Accreditation of Computer Course (DOEACC) of Govt. of India

OR

From National Institute of Electronics and Information Technology (NIELIT) and its authorized institutions at the time of their appointment.

Note.—The candidates who have certificates/Diploma/Bachelor's OR Master's Degree in Computer Science from any recognized Institution/University shall be exempted from ICT Skills course.

ARUN KUMAR GUPTA, (IAS),
Principal Secretary,
Medical Education & Research,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION

TRANSPORT DEPARTMENT

Notification

The 17th March, 2020

No. 2/7/210-H-III(7)-2020/4672.—In exercise of the powers conferred by sub-section 3 of Section 13 of the Punjab Motor Vehicles Taxation Act, 1924, as in force in the Union Territory of Chandigarh as amended from time to time read with Notification No. G.S.R. 366(E), dated 15.6.2006 of Government of India, Ministry of Home Affairs, New Delhi, in view of communication No. F.No. RT-23018 (24)/2019-T, dated 17.07.2019 of Govt. of India, Ministry of Road Transport & Highway, New Delhi, and all other powers enabling him in this behalf, the Administrator, Union Territory, Chandigarh is pleased to exempt Road Tax on Battery Operated Vehicles on all categories in Union Territory, Chandigarh to promote national or public interest for period of three years i.e. from 18.03.2020 to 17.03.2023, subject to its review after every three years.

Dr. HARISH NAYAR, IAS,
Secretary Transport,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION
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LABOUR DEPARTMENT

Notification

The 9th March, 2020

No. 13/1/9725-HII(2)-2020/4223.—In exercise of the powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 86/2016, dated 08.02.2020 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT, Chandigarh between :

TRIPTA, HOUSE NO. 199/2, VILLAGE BADHERI, CHANDIGARH (Workman).

AND

SRI GURU HARKRISHAN SENIOR SECONDARY PUBLIC SCHOOL, SECTOR 40-C,
CHANDIGARH THROUGH ITS PRINCIPAL (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in nutshell is that she was appointed as Aya on 01.04.1988 and remained in uninterrupted employment of the management upto 20.10.2015 when her services were illegally & wrongly terminated by refusing of work.

3. The management contested the case of the workman and filed written statement that no termination order has been passed by the management. The workman was charge sheeted and departmental inquiry is under process.

4. The workman filed replication reiterating the averments of her case and denied the averments made in written statement. From the pleading of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief she is entitled to, if any ? OPW
2. Relief.

5. In support of her case, the workman stepped into the witness box as AW1. Learned representative for the workman closed the evidence. On the other hand, the management examined Ms.Pritinder Kaur-Principal as MW1.

6. During the pendency of the present industrial dispute, learned representative for the workman made the following statement :—

"In view of the notification as well as latest citation of the Hon'ble High Court, I may kindly be allowed to withdraw the present industrial dispute with the liberty to file a fresh one before the Hon'ble Education Tribunal, Union Territory Chandigarh."

Accordingly, the present industrial dispute is disposed off as withdrawn with a liberty to file a fresh before the Education Tribunal, Union Territory, Chandigarh. Appropriate Government be informed. File be consigned to the record room.

(Sd.),

(ANSHUL BERRY),

Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB 0095.

The 08.02.2020.

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

Notification

The 9th March, 2020

No. 13/1/9729-HII(2)-2020/4167.—In exercise of the powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 62/2016, dated 27.01.2020 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh, between :

KIRANJEET KAUR, D/O SHRI IQBAL SINGH, NEAR GOVERNMENT KHALSA SCHOOL, RANDHAWA ROAD, KHARAR, DISTRICT SAS NAGAR, MOHALI (Workman).

AND

1. THE PUNJAB STATE COUNCIL FOR SCIENCE & TECHNOLOGY (A STATE GOVERNMENT UNDERTAKING) MGSIPA COMPLEX, INSTITUTIONAL AREA, SECTOR 26, POST BOX NO. 727, CHANDIGARH THROUGH ITS MEMBER SECRETARY/EXECUTIVE MEMBER.

2. THE PRINCIPAL SECRETARY, DEPARTMENT OF SCIENCE TECHNOLOGY & ENVIRONMENT & MEMBER SECRETARY, PSCST, ROOM NO. 526, 6TH FLOOR, CIVIL SECRETARIAT, SECTOR 9, UNION TERRITORY, CHANDIGARH.

3. EXECUTIVE DIRECTOR, THE PUNJAB STATE COUNCIL FOR SCIENCE & TECHNOLOGY (A STATE GOVERNMENT UNDERTAKING) MGSIPA COMPLEX, INSTITUTIONAL AREA, SECTOR 26, POST BOX NO. 727, CHANDIGARH (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that she was duly selected and appointed as Clerk-cum-Typist and joined her duties with the management in the year 1999 on consolidated salary. She had been working continuously with diligence & devotion throughout and her work & conduct was found very good throughout till the date of her illegal termination on 26.03.2015. Termination order of the workman is illegal and in violation of provisions of Section 25-F of the ID Act as neither one month notice or pay in lieu of notice was given to the workman nor retrenchment compensation was paid to her before terminating her services. Termination is also illegal as work was in existence and immediate officer of the workman had recommended for extension of her services which is evidence from noting dated 27.02.2015. The services of the workman have been terminated by giving reasons that the workman did not fulfil the qualification for post, which is factually incorrect. Further termination of the workman is by way victimization and amounts to unfair labour practice as defined in 7th Schedule of the ID Act. Employees Union of PSCST had filed complaints against the management for grave allegation / irregularities committed by PSCST i.e. management promotions and appointments of the employees and these allegations have also been proved by the Inquiry Officer. The workman being member of the union have been victimized. The workman deserves to be regularised as per instructions issued by the State of Punjab dated 18.03.2011 and 17.11.2011 to the effect that all those employees who are working on temporary / adhoc and contractual basis, their services be regularised. The workman had worked for more than 14 years and have now become overage for job. Ultimately, it is prayed that the workman be reinstated with continuity of service and full back wages along with at the rate 12% per annum.

3. The management contested the case of the workman and filed written statement raising preliminary objection that the management is not an 'industry' as defined under the ID Act so this Court has no jurisdiction to entertain the present industrial dispute reference. Ms. Kiranjeet Kaur is not a 'workman' as defined under the ID Act. On merits, it is pleaded that Ms. Kiranjeet Kaur was appointed as Clerk-cum-Typist on consolidated salary in 1999 purely on contract basis. Her services were never terminated rather she was relieved from the services of the Punjab State Council for Science & Technology (hereinafter called 'PSCST') on 26.03.2015 on expiry of her last contractual term on 12.03.2015. Since the management is not an 'industry' as defined under Section 2(j) of the ID Act and being a scientific & research institution organisation approved by DSIR and Central Government under Clause (ii) of sub-section (i) of Section 35 of the Income Tax Act, 1961 so Ms. Kiranjeet Kaur is not a 'workman' as per Clause 2(s) of the ID Act as such provisions of Section 25-F of the ID Act are not applicable in the present case. As per the arbitration clause contained in the appointment letter the matter was required to be referred to the sole arbitration of the Executive Director / PSCST or her nominee acting as such so Ms. Kiranjeet Kaur was required to refer the dispute, if any, to the sole arbitration of the Executive Director / PSCST. The case for extension in the contractual appointment was duly put up to the competent authority on the completion of her last term of contractual appointment on 12.03.2015. Since Ms. Kiranjeet Kaur was not fulfilling the basic qualification for the post on which she was working and no funds were given by the Central Government for the project on which she was working so her contractual service came to an end on expiry of her contractual period on 12.03.2015. She was working on a tenure post under a project on contractual basis. She has no legal right for continuation on the post on which she was working as she did not fulfil the basic qualification. Other averments of the claim statement were denied and ultimately, it is prayed that the claim statement be dismissed.

4. The workman filed replication reiterating the averments of her case and denied the averments made in written statement. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief she is entitled to, if any ? OPW
2. Whether Smt. Kiranjeet Kaur is not a 'workman' as defined under the ID Act ? OPM
3. Whether the management is not an 'industry' as defined under the ID Act ? OPM
4. Relief.

5. In support of the case, the workman examined himself as AW1. Learned representative for the workman closed the evidence. On the other hand, the management examined Shri Avdesh Kaushik - Manager (F&A) as MW1. Learned representative for the management closed the evidence.

6. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

ISSUE NO. 1 TO 3 :

7. Onus to prove issue No.1 was on the workman whereas onus to prove issue No.2 & 3 was on the management but all these issues are taken up together to avoid repetition of discussion and for the sake of convenience. Learned representative for the workman has examined the workman as AW1, who deposed that she was selected and appointed as Clerk-cum-Typist and joined her duties with management in 1999 on consolidated salary. She was not appointed against any project and had been working continuously with diligence and devotion throughout and her work & conduct was found good till her illegal termination on 26.03.2014. She had passed matriculation in the year 1983 and was fulfilling the qualification of post of Clerk-cum-typist. Copy of matriculation certificate is Exhibit 'W1' and copy of appointment letter is Exhibit 'W2'. Termination order of herself is illegal under Section 25-F of the ID Act. The services of herself is terminated by without giving any reason so act & conduct of the management is illegal and liable to be set aside as she had worked for more than 14 years and now become over age. Other employees appointed along with her have been regularised. Copy of their appointment received under the RTI is Exhibit 'W5' to 'W11'. Copy of representation dated 08.09.2015 made by her after her illegal termination is Exhibit 'W12'.

8. Learned representative for the workman has argued that the workman was appointed as Clerk-cum-Typist in 1999 and had been working continuously upto 26.03.2015. The stand of the management that the workman was appointed against specific scheme and scheme came to end but last appointment of the workman dated 04.03.2014 was not against any scheme which is evident from the appointment letter. Her services were terminated in March 2015 which is in violation of provisions of Section 25-F of the ID Act. The defence of the management that the management is not covered under the ID Act is false. It is further argued that the workman have become overage to seek employment so the workman is entitled for reinstatement with continuity of service and full back wages. He has placed reliance on citations **Bhunvesh Kumar Dwivedi Versus Hindalco Industries Limited, 2014(11) SCC 85; Kachchh District Panchayat Through Deputy Executive Engineer & 1 Versus Rambhai Meghraj Gadhvi, 2017(1) SCT 20 (Guj.); Chief Administrator, Haryana Urban Development Authority, Panchkula Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Panipat, 2002(3) SCT 14 (P&H); Sunil Kumar Versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurdaspur & others, 2017(1) SCT 69 (Pb. & Hry.); Suraj Pal Singh Versus The Presiding Officer & Another, 2006(2) SCT 314 (Delhi); Ramachandra Vithuji Kothare Versus Industrial Court, Nagpur & Others, 1985 LIC 1796 (Bom.); Senior Medical Officer Incharge, Primary Health Centre, Dudhun Sadhan, Patiala Versus Sukhwinder Singh & Another, 2007(2) SCT 112 (P&H)(DB) and M/s Caparo Maruti Limited Versus P.O. Industrial Tribunal & Another, 2020(1) SCT 200 (P&H)(DB).**

9. On the other hand, learned representative for the management has examined Shri Avdesh Kaushik-Manager (F&A) as MW1, who deposed that the Punjab State Council for Science & Technology is not an 'industry' as defined under the ID Act so this Court has no jurisdiction to enter into the reference. He further deposed that Ms. Kiranjeet Kaur is not a 'workman' and her services were not terminated by the management. She was appointed as Clerk-cum-Typist on consolidated salary in the year 2000 purely on contract basis and she was not illegally terminated rather relieved from the services of the management on expiry of contract. He further deposed that the management is a scientific & research institution organisation approved by DSIR and Central Government under Section 35 of the Income Tax Act. He referred to clause of the appointment letter in which it is mentioned that if their arises any dispute the matter will be referred to arbitration. There is no termination and no violation of provision of Section 25-F of the ID Act.

10. Learned representative for the management has argued that the management is not an 'industry' and referred to definition of 'industry' as defined under the ID Act and further argued that the conditions precedent under Section 25-F of the ID Act is only applicable to the industry. Since the management is not an 'industry' the workman also did not fall under the definition of 'workman' as defined under the ID Act. He further argued that the services of Ms. Kiranjeet Kaur were never terminated rather she was relieved from the services of the management after expiry of contractual terms. Further as per appointment letter of Ms. Kiranjeet Kaur, if any dispute arises the same shall be referred to the arbitration. He prayed for dismissal of the present industrial dispute.

11. After giving my careful consideration to the rival contentions of both the sides, I find that before proceedings let us peruse the definition of 'industry'

"2(j) "industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—

- (i) any capital has been invested for the purpose of carrying on such activity; or
- (ii) such activity is carried on with a motive to make any gain or profit, and includes—
 - (a)
 - (b)

But does not include—

- (1)
 - (2)
 - (3) educational, scientific, research or training institutions; or
 - (4) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or
-"

Now let us peruse Section 25-F of the ID Act in which conditions precedents to retrenchment of the workman, the same as under :—

"25F. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until--

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice."

Now adverting to the present case in hand, it is crystal clear from the definition of 'industry' that the Punjab State Council for Science & Technology is not an 'industry' in terms of Section 2-J of the ID Act. It is a science & research institution organisation approved by DSIR and Central Government under Clause (ii) of sub-section (i) of Section 35 of the Income Tax Act, 1961. Accordingly, Ms. Kiranjeet Kaur is not a 'workman' as per Section 2(s) of the ID Act. Hence the provisions of Section 25-F of the ID Act are not applicable in the present case. Moreover, in the appointment letter there is an arbitration clause which is as under :—

"All differences and disputes between you and PSCST on the terms and conditions of appointment or any claims, liability in relation to or arising out of this offer shall be referred to sole arbitration of Executive Director/PSCST or her nominee acting as such at the time of reference whose decision shall be final and binding on you.."

Hence, Ms. Kiranjeet Kaur was required to refer the dispute, if any, to sole arbitration of the Executive Director/PSCST or its nominee acting. Learned representative for Ms. Kiranjeet Kaur has relied upon citation **Ramachandra Vithuji Kothare Versus Industrial Court, Nagpur & Others** (*supra*) but he has failed to prove on record how there is inconsistency in the terms of contract of employment are favourable to him when the management institution does not come under the definition of 'industry'. Further more it is admitted case of the parties that Ms. Kiranjeet Kaur was appointed on contractual basis and she herself placed on record copy of the appointment letter and her last term of contract expired on 12.03.2015 and she was relieved from duty on 26.03.2015 and her contract was reviewed from time to time and she was offered fresh appointment. This fact is admitted by Ms. Kiranjeet Kaur herself during his cross-examination that she had never given any representation to the department regarding regularisation of her service and she was relieved from the department from the post of Clerk after completion of tenure as per Exhibit 'W3'. Hence, she has been relieved after expiry of terms. There is no termination on the part of the management. Moreover, as discussed earlier that the management is not an 'industry' so Ms. Kiranjeet Kaur is not a 'workman'. Accordingly, all these issues are decided against the petitioner and in favour of the management.

RELIEF :

12. In the light of findings on the issues above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

The 27.01.2020.

(Sd.) ,
(ANSHUL BERRY),

Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB 0095.

CHANDIGARH ADMINISTRATION**LABOUR DEPARTMENT****Notification**

The 9th March, 2020

No. 13/1/9717-HII(2)-2020/4169.—In exercise of the powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 28/2015, dated 21.01.2020 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT, Chandigarh between :

SUKHDEV SHARMA S/O LATE SHRI RAM CHAND SHARMA, R/O HOUSE NO. 1018, HOUSING BOARD COLONY, DHANAS, UNION TERRITORY, CHANDIGARH (Workman).

AND

EXECUTIVE ENGINEER, MUNICIPAL CORPORATION, PUBLIC HEALTH DIVISION NO. 2, CHANDIGARH (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that he was appointed as Beldar on 16.08.1996 on daily wage basis after taking interview like a regular process of selection against the regular vacant post by the management. He was posted as Beldar in R-Sub-Division No. 6, R-Division No. 2, Municipal Corporation, Sector 17, Chandigarh and attended the duty of Work Munshi in the filed upto the year 2000 and in the year 2001, he was ordered to work as Telephone Attendant in the office of Municipal Corporation, Public Health Sub-division No. 6, Division No. 2, Sector 37, Chandigarh and there he worked upto July 2007. In the month of July 2007, the services of the workman along with other employees of the Municipal Corporation, Chandigarh namely S. Balwinder Singh-Beldar were transferred to the Municipal Corporation, Public Health, Division No.2, Chandigarh against the regular vacant post of Beldar and since then he was working in the office of Municipal Corporation Road, Sector 37, Chandigarh. The workman was working on the post of Beldar since 16.08.1996 continuously without any break and his services were terminated by the management in an illegal manner *vide* order dated 09.12.2013 with retrospective effect with effect from 11.09.2013 on the ground that the CBI has registered a case against the workman on 11.09.2013, for

accepting bribe of Rs. 6,000/- from the complainant. The workman was considered as daily wager while terminating his services illegally whereas he was to be treated as regular employee as he is eligible to be considered for regularisation after the completion of 10 years service from the year 1996 in view of the instructions issued by the Chandigarh Administration which are applicable to the employees of Municipal Corporation, Chandigarh. Work & conduct of the workman was good and there was no complaint against his work from any corner. The services of the workman were terminated on account of a case registered by the CBI against him on 11.09.2013 without giving any prosecution sanction. Juniors persons namely S/ Shri Mukesh Pathak, Amar Singh, Jabbar Singh, Beer Singh, Neel Kamal and various other persons were retained by the management at the time of terminating the services of the workman. The workman had completed more than 240 days of his services when he was not allowed to join his duty on 01.10.2013. The workman had submitted his joining report to the Sub-divisional Engineer, Municipal Corporation Public Health, Sub-division No.6, Chandigarh on 01.10.2013. The workman had submitted reminders dated 17.10.2013 and 06.12.2013 in continuation of his joining report dated 01.10.2013 to the S.D.E. concerned but he was not allowed to join his duties. The S.D.E. Concerned had verbally told the workman that he will be allowed to join his duties after getting approval from the higher authority. Impugned termination is directly hit by the provision of Section 25-F of the ID Act and Articles 14 & 16 of the Constitution of India. The work of the department against whom the services of the workman were engaged is of a permanent in nature and is still in existence. No suspension order, no pay in lieu of notice, no charge sheet was issued to the workman before terminating his services. No inquiry was conducted and the workman was punished with the major punishment of termination order, without following any procedure of law so impugned termination order is in violation of principle of natural justice. No retrenchment compensation was paid to the workman. The workman has cone overage and could not get job anywhere and he is not gainfully employed in these days. The applicant is facing great hardships in these days due to the unemployment after the impugned illegal termination and facing great difficulties to pull on the day to day expenses of his family and fully dependant upon his friends, relatives and nears & dears. The education of the small children of the workman is also affected due to his illegal termination. The workman was served a notice dated 02.12.2013 for termination of his services which was received by him on 06.12.2013 and requested for extension of time to give effective reply to the said notice after receipt of photocopy of rules as demanded by the workman in his application dated 09.12.2013. The request of the workman was not considered and no copy of relevant rules was supplied to him. No intimation was given to the workman for considering and rejecting his request to extend the time for giving effective reply to the notice dated 02.12.2013. The workman was served impugned termination order dated 09.12.2013 without affording any opportunity of hearing and without considering his request as mentioned in his application dated 09.12.2013. Ultimately, it is prayed that impugned termination order dated 09.12.2013 be set aside and the workman be reinstated with continuity of service and full back wages along with consequential benefits.

3. The management contested the case of the workman and filed written statement that the workman was appointed as Beldar on 16.08.1996 on daily wage basis. The workman was caught accepting bribe and remained in jail from 11.09.2013 till 30.09.2013. The official who were appointed before 1992 have been made regular against the vacancy available. The workman was arrested for bribe so it cannot be said that his work & conduct was satisfactory. The services of the workman were terminated *vide* order dated 09.12.2013 Since the workman was caught red handed by the CBI on 11.09.2013 and he remained in custody so his services have been rightly terminated by the management. The workman was a daily wager so no inquiry is necessary. The workman was served with notice dated 02.12.2013 so after considering his reply *vide* order dated 09.12.2013 his services were illegally terminated. Retaining of services of other workmen has no relevancy in the present case as there is no case registered against the workman and their work & conduct is satisfactory. Since the workman was a daily wager so there was no necessity of holding an inquiry and serving any charge sheet on him. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

4. The workman filed replication reiterating the averments of his case and denied the averments made in written statement. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

5. In support of the case, the workman stepped into the witness box as AW1 and closed the evidence. On the other hand, the management examined Shri Suresh Gill—Executive Engineer as MW1. Learned representative for the management closed the evidence.

6. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

ISSUE NO. 1 :

7. Onus to prove this issue was on the workman and in order to prove the same the workman himself stepped into the witness box as AW1 and deposed that he was appointed as Beldar on 16.08.1996 on daily wage basis after taking his interview like a regular process of selection against the regular vacant post by the management. He was posted as Beldar in R-Sub-Division No.6, R-Division No.2, Municipal Corporation, Sector 17, Chandigarh and attended the duty of Work-Munshi in the field upto the year 2000 and in the year 2011 he was ordered to work as Telephone Attendant in the Office of M.C. Public Health, Sub-division No.6, Division No. 2, Sector 37, Chandigarh and he worked upto July 2007. In the month of July 2007 the services of himself along with other employee of M.C. Chandigarh namely Shri Balwinder Singh—Beldar were transferred to M.C. Public Health, Division No.2, Chandigarh against the regular vacant post of Beldar and since then he was working in the office of M.C. Road, Sector 37, Chandigarh. He had continuously worked with the management from 16.08.1996 and his services were terminated by the management in an illegal manner *vide* order dated 09.12.2013 with respective effect with effect from 11.09.2013 on the ground that the CBI has registered a case against himself on 11.09.2013 for accepting bribe of ₹ 6,000/- from the complainant. While terminating the services of himself he was considered as daily wager whereas he is eligible to be considered for regularisation after completion of ten year of service in view of the instructions of the Chandigarh Administration, applicable to the employees of the Municipal Corporation. The services of himself were terminated on account of a case registered by the CBI against him on 11.09.2013 without giving any prosecution sanction. Juniors persons namely S/Shri Mukesh Pathak, Amar Singh, Jabbar Singh, Beer Singh, Neel Kamal and various others persons were retained by the management at the time of terminating his services. He had completed more than 240 days of service when he was not allowed to join his duty on 01.10.2013. He had submitted his joining report to the S.D.E., M.C.P.H. Sub-division No.6, M. C. Chandigarh on 01.10.2013 but despite reminders dated 17.10.2013 and 06.12.2013 he was not allowed to join his duties. He further deposed that work of the management against which the services of himself were engaged is of permanent in nature and is still existence. No suspension order, no pay in lieu of notice, no charge sheet was issued to himself before terminating his services. No inquiry was conducted and he was punished with the major punishment of termination without following any procedure of law. He was served with a notice dated 02.12.2013 for termination of his services, which was received by him on 06.12.2013. He requested for extension of time to give effective reply after receipt of rules as demanded by himself in his application dated 09.12.2013. His request was not considered and no copy of relevant rules was supplied to him. He further deposed that there is great discrimination in his case with the case of Shri Sukhdev Singh-Beldar, who had also joined his services with the Chandigarh Administration, on daily wage basis. Shri Sukhdev Singh was booked by the Vigilance Department, Union Territory Chandigarh on 25.06.2013 under Section 13 of the PC Act and 384/120-B IPC and he remained under the judicial custody from 27.06.2013 to 25.07.2013 and his prosecution was also sanctioned by the management and he was reappointed in the service by the management uptill his conviction by the learned Court but in the case of himself no sanction was granted by the management and his services were terminated.

8. Learned representative for the workman has argued that he was appointed as Beldar on 16.08.1996 on daily wage basis and his services were terminated by the management in an illegal manner *vide* order dated 09.12.2013 with retrospective effect that 11.09.2013 on the ground that CBI has registered a case against the workman on 11.09.2013 for accepting bribe. He argued that work & conduct of the workman has been good and there is no complaint against his work from any corner. He was served a notice dated 02.12.2013 for termination of service. He moved the application for extension of time which was not considered and his services were terminated illegally without conducting any departmental inquiry. He placed reliance on citations **Talwinder Singh Versus State of Punjab & Others, 2016 (2) SCT551 (P&H); Dr. Khazan Singh Versus The State of Haryana Others, 2004(1) SCT334 (P&H); D.K. Yadav Versus M/s J.M.A. Industries Limited, 1993(3) SCC259; Food Corporation of India Versus Ajmer Singh & Others, 2011(2) SCT521 (P&H) (DB)I and The Managing Committee, Kanya Maha Vidyalaya Jullundur Versus The State of Punjab & Others, 1986 (2) SLR 415 (P&H) (DB).** He prayed for reinstatement of the workman with continuity of service and full back wages.

9. On the other hand, learned representative for the management has examined Shri Suresh Gill- Executive Engineer, MPCH Division No.2, Sector 11, Chandigarh as MW1, who deposed that the workman was appointed as Beldar on 16.08.1996 on daily wage basis and he was not appointed by any selection process which could meet the test of Article 14 & 16 of the Constitution of India. There had been no advertisement nor requisition from employment exchange against which the workman could apply. He was not appointed against a regular vacant post. The services of the workman were terminated *vide* order dated 09.12.2013. He further deposed that a case was registered against the workman bearing FIR No. RCCHG2013A0022 dated 11.09.2013 under Section 7 & 13 (1) (D) r/w 13 (2) of Prevention of Corruption Act, 1988 in which he was convicted. He filed criminal appeal No.1943 of 2019. He further deposed that case of a daily wager stands on much lower pedestal than that of a regular employee. It is no longer *res integra* that a regular employee can be dismissed on his conviction by invoking the punishment & appeal rules as well as Article 311 of the Constitution of India. A daily wager has no right for continuing in job one an FIR has been lodged under the Prevention of Corruption Act which ultimately culminated into his conviction. Initially the workman remained behind the bars from 11.09.2013 to 30.09.2013. The workman cannot draw any parity with the persons who have been referred as junior namely Mukesh Pathak, Amar Singh, Jabbar Singh, Bir Singh, Neel Kamal and various other person. The services of the workman were terminated on account of his conduct which was duly noticed in order dated 09.12.2013.

10. Learned representative for the management has argued that the workman was terminated from service rightly. A case was registered against him under the Prevention of Corruption Act. He was a daily wager and not regular employee under Civil Services Rules. Before terminating his services the workman was issued notice to which he failed to file reply as such termination is legal and just. He prayed for dismissal of the present industrial dispute.

11. After giving my careful consideration to the rival contentions of both the sides, I find that it is admitted case that the workman was appointed as Beldar on 16.08.1996 on daily wage basis but it is denied by the management that he was a regular employee and he was appointed by a regular process of selection by the management. The workman also failed to prove on record that he was regular employee. Length of service of the workman is nowhere disputed. It is also on record that the workman was booked by the CBI for taking bribe whereas the workman is stating that it is a false case against him. As per documentary evidence on record, the management had issued notice for termination of services of the workman Exhibit 'W3' on 02.12.2013. Thereafter *vide* letter dated 09.12.2013 Exhibit 'W6' the services of the workman were terminated in which it is clearly mentioned that notice was issued to explain his position within three days from the date of notice but he has refused to accept the notice on 03.12.2013 then the notice was received by his wife Kavita Sharma on 06.12.2013 but the workman had not replied the same and his services were terminated with effect from 11.09.2013 i.e. the date of his absence as well as arrest by the CBI. Only plea taken by the workman is that he was falsely implicated in this case and he has not been heard properly and no departmental inquiry has been conducted. He has placed reliance on citations titled as **Talwinder Singh Versus State of Punjab & Others, D.K. Yadav Versus M/s J. M.A. Industries**

Limited, Food Corporation of India Versus Ajmer Singh & Others and The Managing Committee, Kanya Maha Vidyalaya Jullundur Versus The State of Punjab & Others (*supra*). After going through these citations as well as plea taken by the workman I am of the view that the workman was working as Beldar on daily wage basis and he was not a regular employee as per his own documents placed on record Exhibit 'W14' in which it is mentioned that the Civil Services Rules are not applicable on daily wage basis employees. Further document Exhibits 'W9', 'W10', 'W11', 'W13' and 'W14' clearly reveals about sanctions of prosecution against the daily wagger so it is clear that he is involved in FIR lodged by the management and the workman had not filed reply to the notice of the management dated 02.12.2013 Exhibit 'W3' and later on moved an application for extension of time limit. He has already been given opportunity to file reply. Moreover, he has already booked by the CBI so termination is illegal. Citations **Talwinder Singh Versus State of Punjab & Others, D.K. Yadav Versus M/s J.M.A. Industries Limited, Food Corporation of India Versus Ajmer Singh & Others and The Managing Committee, Kanya Maha Vidyalaya Jullundur Versus The State of Punjab & Others** (*supra*) referred by the workman is concerned, the facts of these citations are quite distinguishable as in the cited cases the petitioners were regular employee whereas in present case in hand the workman is a daily wagger and citation **Dr. Khazan Singh Versus The State of Haryana & Others** (*supra*) deals with the premature retirement. In the light discussion made above, the workman has failed to prove that his services were illegally terminated by the management. Accordingly, this issue is decided against the workman and in favour management.

RELIEF :

12. In the light of findings on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.). . . .,

(ANSHUL BERRY),

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No.PB0095.

Dated: 21.01.2020.

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

Notification

The 9th March, 2020

No. 13/1/9719-HII(2)-2020/4171.—In exercise of the powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 111/2016, dated 23.01.2020 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT, Chandigarh between :

RAJ NATH, R/O FLAT NO. 613, SMALL FLAT COMPLEX, DHANAS, CHANDIGARH (Workman).

AND

1. SURESH CYCLE INDUSTRIAL CORPORATION (THROUGH PROPRIETOR SHRI SURESH KUMAR KWATRA), BOOTH NO. 26, SECTOR 20-C, CHANDIGARH.

2. S.K. STOVE INDUSTRIES (THROUGH PROPRIETOR SHRI SURESH KUMAR KWATRA), PLOT NO. 182/56, INDUSTRIAL AREA, PHASE-I, CHANDIGARH (Management).

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AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that he joined services of the management on 26.07.1990 and continued to serve the management with utmost sincerity, hard work and dedication till 25.07.2015. During the service period from 1990 to 2005 he worked thirteen hours daily duty i.e. one hour at the sister concern of the management M/s S. K. Stove Industry, Plot No.182/56, Industrial Area, Phase - I, Chandigarh and twelve hours at booth No. 10, Sector 20, Chandigarh. After 2005 the workman worked twelve hours daily duty at M/s Suresh Cycle Industrial Corporation in Sector 20-C and during 2014 and 2015 he worked eleven hours daily duty. During the service period provident fund was also deducted by the management i.e. No.1 & 2 and ESI card was also made by the management for providing medical benefits to the employee. While serving the management, the salary of the employee was ₹ 11,000/- in hand and the same is disbursed in cash and no separate slip was ever issued by the management. Both the firms of the management are managed by it Proprietor Shri Suresh Kumar Kwatra. The management had not paid the workman over time allowance for over time duty during service period for which he requested the management several time. The workman was being assured to pay the overtime wages as and when he will resign from service or management will terminate his service but till date the management had not paid any overtime wages, gratuity amount. The workman had put total 35252 hours as over time during his total span of last 25 years. One hour pay of overtime comes around ₹ 52.87 so the total amount of over time is ₹ 18,63,773/- as on the date of termination. The workman had served the management with full sincerity and utmost devotion but the management had terminated the services of the workman on 25.07.2015 without any proper opportunity/notice to him. The management had not followed the proper procedure while terminating the services of the workman permanently. The management had threatened for indulging the workmen into a fabricated criminal case. The workman had raised the demand notice under Section 2-A of the ID Act against the management on 04.03.2016 for conciliation. But the proceedings were gone futile and even the management had not bothered to file any comments against the demand notice raised by the workman. The workman is filing the claim for grant of gratuity separately before the authority under the Payment of Gratuity Act. He is entitled for the over time amount due towards the management and the compensation for illegally termination of services by the management without following the proper procedure. Reinstatement is not demanded so over time amount due towards the employee and the compensation for illegal termination of services is demanded in the present statement of claim. No proper opportunity has been provided by the management before terminating the services, no show cause has been issued. The termination of the workman without any proper opportunity of hearing is bad in the eyes of law and the same deserves to be set aside as it is a settled principle of law that notice must be given by the management before terminating the services of workman. Ultimately, it is prayed that the management be directed to pay the due over time amount to the workman and compensation for illegal termination of the workman along with back wages.

3. The management contested the case of the workman and filed written statement that the workman was employed as a Helper orally on the payment of ₹ 2,000/- per month on 26.07.1990 subject to the condition that he shall have to work during the day from 10.00 A.M. till 08.00 P.M. (shopping hours) with a lunch break from 1.00 P.M. to 3.00 P.M. The workman was increased from time to time and lastly the salary was increased to ₹ 10,000/- in the month of January 2015. The workman continued to work upto 25.07.2015 and thereafter he did not attend to his work. The workman left the work without assigning any reasons thereto, meaning thereby, he had abandoned the services himself. The workman had only worked for the period from 10.00 A.M. to 8.00 P.M. daily as agreed to with him at the time of his engagement as a Helper, with lunch break. The workman did not work extra hours, as alleged. Since the workman did not work more than his duty hours, there is no question of payment of over time. The workman could not have waited for non-payment of overtime allowance for a period of more than 25 years. The workman was covered under the ESI Scheme and being a low paid workman, even the workman's share was deposited by the management with the ESI. Since the employer/employee share stands deposited with the ESI, the workman is only entitled to the treatment as per the provisions of the Act/Rules governing the ESI. Payment of gratuity amount is not applicable in the case of workman. The claim regarding gratuity, if any, is required to be filed and decided by the authority under the

Payment of Gratuity Act. The workman has already been paid salary for the period he had worked with the management. The overtime allowance is not required to be paid as the workman did not work for more than the duty hours with the management. The workman had abandoned the service without informing the management thereby caused great inconvenience in their business. Since the workman had abandoned the service of the management willfully, without assigning any reasons and giving any notice so the provisions of section 25-F of the ID Act have no application in his case. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

4. The workman filed replication reiterating the averments of his case and denied the averments made in written statement. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what relief he is entitled to, if any ? OPW
2. Whether the claim of the workman is not maintainable ? OPM
3. Relief.

5. In support of the case, the workman stepped into the witness box as AW1. The workman also examined Shri Shiv Prasad as AW2 and closed the evidence. On the other hand, the management examined Shri Suresh Kumar Kwatra - Proprietor as MW1. Learned representative for the management closed the evidence.

6. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows:-

ISSUE NO. 1 & 2 :

7. Both these issues are taken up together to avoid repetition of discussion. Onus to prove issue No.1 was on the workman whereas onus to prove issue No.2 was on the management. In order to prove his case, the workman stepped into the witness box as AW1 and deposed that he joined the services of the management on 26.07.1996 and continue to serve the management with utmost seniority upto 25 years of continuous service till 25.07.2013. During the period 1990 to 2005 he worked for thirteen hours daily duty. After 2005 he worked 12 hours daily at M/s Suresh Cycle Corporation and during 2014-15, he worked eleven hours daily duty. The management did not maintain any separate attendance register for attendance of the employees. The management used to mark the attendance of the employees in diary. Copies of attendance sheet are Mark 1 to 30. The management used to deduct provident fund but the management had not paid any single penny towards provident fund. Copy of identity card of ESI is Exhibit 'AW1/1'. The salary of the workman was ₹ 11,000/- in hand. The employer had not paid him over allowance for over time duty. He had put total 35252 hours as over time and one hour pay of over time comes around ₹ 52.87 so total amount of over time is ₹ 63,773/- as on the date of termination. He raised the demand notice under Section 2-A of the ID Act. Copy of the demand notice is Exhibit 'AW1/2' and copy of letter dated 02.09.2016 for closing of conciliation proceedings Exhibit 'AW1/3' so the workman is entitled for over time and the compensation for illegal termination as the management had terminated the services of the workman without following the proper procedure and he is not demanding reinstatement but compensation for his illegal termination.

8. The workman also examined Shri Shiv Prasad as AW2, who deposed that he is working with the management as Mechanic. The management is not maintaining any proper attendance register. He knows that the workman was terminated by the management without giving any notice. He was issued with ESI card Exhibit 'AW2/1'.

9. Learned representative for the workman has argued that the workman had worked from 1990 to 25.05.2015 with utmost sincerity, hard work and dedications. During his service tenure the workman had worked 13 hours daily with the management but the management had not paid the over time allowance to the

workman for over time done by the workman. He further argued that the services of the workman were terminated without following the proper procedure as no show cause notice was issued, no inquiry was held and no retrenchment compensation was paid to the workman. The workman is entitled for due over time wages and compensation for his illegal termination.

10. On the other hand, learned representative for the management has examined Shri Suresh Kumar Kwatra-Proprietor as MW1, who deposed that the workman in the present claim petition has claimed for 35252 hours during his total span of 25 years and gratuity amount of ₹ 1,35,700/-. The claim of gratuity is not maintainable. The workman was employed as Helper orally on the payment of ₹ 2,000/- on 26.07.1990 subject to condition that he shall have to work from 10:00 A.M. to 8:00 P.M. The workman continued to work upto 25.07.2015 and thereafter did not attend his work and left the work without assigning any reason. The workman was covered under the ESI scheme. The workman had already been paid salary for the period for which he had worked. He further deposed that the workman had abandoned the services of the management without giving any notice. He is not entitled for any relief under the ID Act

11. Learned representative for the management has argued that the workman has abandoned the job himself. He is not entitled for over time as he had done his duties in the prescribe time and the case of the workman cover under the ESI scheme so he is only entitled to treatment as per provisions of the ESI Act. As regards the payment of gratuity is concerned the same is not maintainable in this Court. He prayed for dismissal of the present industrial dispute.

12. After giving my careful consideration to the rival contentions of both the sides, I find that it is nowhere disputed that the workman had joined the duty of the management on 26.07.1990 and continue to serve with the management 25.07.2015. Learned representative for the workman is demanding over time wages, provident fund, gratuity, and compensation due to illegal termination. The workman is not demand reinstatement in to service. First of all so far as over time wages is concerned the workman has miserably failed to prove on record how he had worked over time. Moreover, this an industrial dispute *qua* illegal termination of the workman and issue with regard to over time is not to be decided in the present industrial dispute. Secondly issue regarding provident fund and gratuity is not maintainable as there is separate authority under the Payment of Gratuity Act and Provident Fund Act respectively for claiming gratuity and provident fund.

13. The workman by way of filing this industrial dispute alleging that he has been illegally terminated by the management and he is not claiming his reinstatement rather claiming compensation for his illegal termination so it is to be seen whether he has been illegally terminated by the management or not. Admittedly the workman had worked with the management from 26.07.1990 to 25.07.2015 i.e. for 25 years. There is no *iota* of evidence led by the management whether the workman had ever absented or misbehaved with the management. Thereby there is no complaint of workman with regard to working. Second plea taken by the management that the workman had himself abandoned the job of the management. If it is assumed to be true then it is the duty of the management to send notice to the workman seeking his explanation that he is not coming to the management. But the management had failed to send a single notice. The workman had placed on record Mark 1 to 30 i.e. attendance slips. The plea of the workman is that the management had terminated him illegally. There is nothing proved on record by the management that the workman had himself left the job and it had send notice or conduct inquiry for absence of the workman duty without any reason. Moreover, the management had even failed to produce accounts statement and any other document to prove that both the firm are working as per norms of the labour laws. The management is not maintaining the attendance of the employees. So perusal of oral & documentary evidence it is crystal clear that termination of the services of the workman by the management is illegal. Since the workman himself stating in his claim that he is not demanding the reinstatement and only claiming compensation for his illegal termination so issue of reinstatement has become redundant. Considering the facts & circumstances of the present case, ends of justice would be met if the workman is compensated in lump sum amount of ₹ 1,35,000/-. Accordingly, issue No.1 is decided in favour of the workman and against the management whereas issue No.2 is partly decided in favour of the management *qua* the claim of gratuity and provident fund.

RELIEF :

14. In the light of findings on the issues above, this industrial dispute is partly allowed. The workman is entitled for lump sum compensation of ₹ 1,35,000/-. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

(ANSHUL BERRY),

The 23.01.2020.

Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB 0095.

CHANDIGARH ADMINISTRATION**LABOUR DEPARTMENT****Notification**

The 9th March, 2020

No. 13/1/9730-HII(2)-2020/4205.—In exercise of the powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 9/2017, dated 08.02.2020 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT, Chandigarh between :

PARKASH, HOUSE NO. 1381, PHASE-I, RAM DARBAR, CHANDIGARH (Workman).

AND

SWAMI AUTOMOTIVES (P) LIMITED, PLOT NO. 72, INDUSTRIAL AREA, PHASE-I, CHANDIGARH THROUGH ITS MANAGING DIRECTOR (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in nutshell is that he was appointed by the management as Maintenance Technician on 08.12.2010 and he remained in uninterrupted employment upto 11.02.2016 when his services were illegally & wrongly terminated *vide* letter No. HR/72/2016, dated 12.02.2016.

3. The management contested the case of the workman and filed written statement that the workman was never serious regarding his work & conduct and on one pretext or other he used to remain absent and never joined the management even after the reminders by the management.

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<https://egazette.chd.gov.in>*

4. The workman filed replication reiterating the averments of his case and denied the averments made in written statement. From the pleadings of the parties, following issues were framed :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

5. In support of the case, the workman stepped into the witness box as AW1. During the pendency of the present industrial dispute, the case was taken in Lok Adalat and parties settled their dispute amicable. The Factory Manager of the management made the following statement:-

"The management is ready to settle the dispute with the workman for a sum of Rs.25,000/- as full and final settlement of his dispute."

Upon which the workman made the following statement :—

"I have heard the statement of Shri Suresh Sharda Factory Manager and accept the offer made by him. I have received Cheque No.003386 dated 08.02.2020 for Rs.25,000/- drawn on HDFC Bank, Plot No.28 Industrial Area, Phase-I, Chandigarh from the management towards full and final settlement of my claim. Now I am left with no right or claim, whatsoever including reinstatement, against the management. The present industrial dispute may kindly be disposed off accordingly."

Accordingly, the present industrial dispute is disposed off as settled by way of compromise. Appropriate Government be informed. File be consigned to the record room.

(Sd.),

(ANSHUL BERRY),

Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB 0095.

The 08.02.2020.

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

Notification

The 9th March, 2020

No. 13/1/9734-HII(2)-2020/4235.—In exercise of the powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 89/2018, dated 08.02.2020 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT, Chandigarh between :

SARABJEET SINGH S/O LATE SHRI SHER SINGH, R/O S.C.F. NO. 209, FIRST FLOOR, SECTOR 24-D, UNION TERRITORY, CHANDIGARH (Workman).

AND

1. BUREAU FACILITY SERVICE (P) LIMITED, 101, KHUSHWA CHAMBERS, MAKWANA ROAD, OPPOSITE APURVA INDUSTRIAL ESTATE, MAROL, ADHERI (E), MUMBAI-400 059 THROUGH ITS MANAGING DIRECTOR

2. BUREAU FACILITY SERVICE (P) LIMITED, S.C.O. NO. 445-446, 2ND FLOOR, CABIN NO. 204, SECTOR 35-C, CHANDIGARH THROUGH THE BRANCH MANAGER.

3. INDUSIND BANK LIMITED, S.C.F. NO. 301-02, SECTOR 38-D, CHANDIGARH THROUGH ITS BRANCH MANAGER (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in nutshell is that he joined the services of management No.1 & 2 with effect from 23.07.2015 as Security Guard and worked continuously without any interruption or break in service till 01.07.2015. He performed his duties with management No.3. On 14.06.2017 the workman was issued a notice informing that he had crossed the age limit. He performed his duties upto 30.06.2017 and 01.07.2017 he was refused duties.

3. Management No.1 & 2 contested the case of the workman and filed written statement that the workman was employed as Security Guard in Indusind Bank, Sector 38-C, Chandigarh i.e. management No. 3 on 21.07.2015. As per instruction received from the Indusind Bank HO, the security guard who had crossed 45 years of age will be relieved from duty with immediate effect. On receipt of the same instructions, the answering management issued a notice to the workman for relieving from duty as he had crossed the age of about 48 years.

4. Upon notice, management No.3 appeared through its Branch Manager. Thereafter none appeared on behalf of management No.3 as such management No.3 was proceeded against *ex parte*.

5. The workman filed replication to the written statement of management No. 1 & 2 reiterating the averments of his case and denied the averments made in written statement. From the pleadings of the parties, following issues were framed :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

6. In support of the case, the workman stepped into the witness box as AW1. During the pendency of the present industrial dispute, the case is taken up in Lok Adalat and the parties settled their dispute amicably. Shri Muntiaz Ahmed - Assistant Operation Manager of the management made the following statement :—

"The management is ready to reinstatement the workman with continuity of service and will pay Rs.10,000/- to the workman towards back wages on joining of his duties on 11.02.2020."

Upon which, the workman made the following statement :—

"I have heard the statement of Shri Muntiaz Ahmed and ready to join the duties of the management with continuity of service and accept Rs.10,000/- towards back wages. Now I am left with no right or claim whatsoever against the management. My present industrial dispute be disposed off accordingly."

Accordingly, the present industrial dispute is disposed off as settled by way of compromise. Appropriate Government be informed. File be consigned to the record room.

(Sd.),

(ANSHUL BERRY),

Presiding Officer,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB 0095.

The 08.02.2020.

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

Notification

The 9th March, 2020

No. 13/1/9720-HII(2)-2020/4237.—In exercise of the powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL), dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 31/2015, dated 23.01.2020 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT, Chandigarh between :

RAJESH GILL, R/O HOUSE NO. 187, STREET NO. 9, SHANTI NAGAR, MANIMAJRA TOWN, CHANDIGARH (Workman).

AND

GROZ BECKERT ASIA PRIVATE LIMITED, 133-135, INDUSTRIAL AREA, PHASE-I, CHANDIGARH THROUGH ITS MANAGING DIRECTOR (Management).

AWARD

1. This award shall dispose off the industrial dispute received in this Court under Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter called 'ID Act').

2. Case of the workman in brief is that he joined the services of the management on 20.07.2007 and on 01.01.2010 he was confirmed in the service of the management. During the service period, the workman had worked with full dedication and devotion, honesty and sincerity and to the best of his ability and for the advancement of the company. The management under the signature of the Factory manager issued charge sheet dated 28.05.2014 to which the workman submitted his reply and thereafter the management appointed Mr. Bipan Sharma as an Inquiry Officer who afterward conducted inquiry and on completion of inquiry submitted his inquiry report dated 26.06.2014. The management sought the comments from the workman on the said enquiry report *vide* letter dated 27.06.2014, which was submitted by him on 02.07.2014. The workman had admitted the charges but at the same time has explained the reasons under what circumstances he went under sleep for a moment. But the management did not consider the reasoning in right perspective and opted to inflict the harsh punishment of dismissal from service. The management dismissed the workman from the services *vide* order dated 05.07.2014 which not sustainable in the eyes of law and liable to be set-aside *inter alia* on the grounds that the management is taking the undue advantage of certified standing orders when it has to take action against the workers employed with the company but when the question of adherence of the said orders on the part of the company arises it hardly follow the same. In the instant case, the appointment of Mr. Bipan Sharma as an Inquiry Officer itself was in contravention of the certified standing orders. The management opted to appoint Inquiry Officer such a person who was able to give his report under the dictates of the management. The workman was charge sheeted for the alleged charge that during working hour he was found sleeping. Nature of the charge, as mentioned under Clause 21-II(d) of the standing orders, is that it is very easy for the management of the company to allege against any of the workers that he was found sleeping during working hours. In the standing orders it has no where provided that under what circumstances the charge is to be proved. If the management is to terminate or dismiss the services of any of the workers, any of its officer will make a complaint against any of the worker leveling the charge of sleeping during working hours the management will treat the same as final and as a mere formality orders to conduct enquiry by appointing Inquiry Officer. The punishment so inflicted by the management is certainly in violation of the settled law. The punishment of dismissal is very harsh in comparison to the charges leveled against the workman and does not commensurate to the gravity of charges. The management was also statutory duty bound to consider all the above facts and other related facts before passing the order of dismissal but

the record shows that the management also failed to discharge its duty. At the time of passing the order of termination the management did not bother to adhere the statutory provisions of the ID Act. There was no charge leveled against the workman that on account his sleep for a moment the company had suffered in any way or manner. The workman had submitted demand notice dated 30.08.2014 to the management and before the Assistant Labour Commissioner (Central)-cum-Conciliation Officer, Sector 9, Chandigarh and the management submitted its reply to the demand notice of the workman. The Conciliation Officer initiated conciliation proceedings in the matter of industrial disputes but the same were failed on 09.03.2015. Ultimately, it is prayed that order of dismissal dated 05.07.2014 be declared as illegal being in total violation of the statutory provisions of the ID Act and the workman be ordered to be reinstated into service of the company with all the service benefits including full back wages and continuity of service from the date of his termination.

3. The management contested the case of the workman and filed written statement that the workman was issued charge-sheet, Inquiry Officer was appointed who conducted a fair and proper enquiry and submitted his inquiry report and the workman was given full opportunity to prove his innocence. Since the petitioner had admitted his guilt/charge and did not raise any objection during the course of enquiry proceedings so he cannot allege now that his inquiry was not held in a fair and proper manner and he was not given opportunity. The action of the management in dismissing the workman from service is legal, just, proper and is tenable in the eyes of law. Since the workman had admitted his guilt so he cannot now allege that the management has taken undue advantage under the certified standing orders. The charges are very specific and there was a voluntary confession of the charges. The action of the management is legal, just, proper and in accordance with rules and regulations applicable to the employees of the management. The punishment is quite commensurate with the gravity of the misconduct committed by the workman. The management had never violated any provision of the ID Act. There is always every possibility of causing loss/damage to the management, if any of its employees sleeps while on duty. A demand notice dated 30.08.2014 was submitted by the workman to the management and a copy of the same was submitted to the Assistant Labour Commissioner-Cum-Conciliation Officer, Union Territory, Chandigarh who *vide* his office letter dated 09.03.2015 intimated the workman and apprised the workman of the statutory provisions of the ID Act to raise his claim before the this Court. Other averments of the case of the workman were denied and ultimately, it is prayed that the claim of the workman be dismissed.

4. From the pleadings of the parties, following issues were framed by the then Presiding Officer :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
- 1-A. Whether the domestic inquiry conducted by the management is illegal & is liable to be vitiated ? OPW
2. Relief.

5. In support of the case, the workman stepped into the witness box as AW1. The workman also examined his wife Smt. Manisha as AW2. Learned representative for the workman closed the evidence. On the other hand, the management examined Shri Bipan Sharma—Inquiry Officer as MW1 and Shri Anil Mangal—Assistant Manager (HR) as MW2. Learned representative for the management placed on record copy of certified standing orders of the management and closed the evidence.

6. I have heard learned representatives for the parties and have gone through the file carefully. My findings on the issues framed in this case are as follows :—

ISSUE NO. 1 & 2 :

7. Both these issues are taken up together to avoid repetition of discussion and for the sake of convenience. Onus to prove both these issues was on the workman and to discharge the same learned representative for the workman has examined the workman as AW1, who deposed that he joined the

management on 20.07.2007 and confirmed as Technician on 01.12.2011. The management issued charge sheet on 28.05.2014 to which he submitted his reply and thereafter the Inquiry Officer was appointed who submitted his inquiry report on 26.06.2014. He submitted his comments to the inquiry report on 02.07.2014 but the management did not consider the reasoning and dismissed him from services on 05.07.2014. He proved the copy of show cause notice, reply and dismissal order as Exhibit 'WW1/1', 'WW1/2' & 'WW1/3'. He further deposed that the management of the company takes undue advantage of the certificate standing orders and appointment of Shri Bipin Sharma as Inquiry Officer is in contravention of Certified Standing Orders. He was charge sheeted for alleged charge that during working hours he was found sleeping but in the standing orders it has nowhere been mentioned that under what circumstances the charges stood proved so punishment inflicted in violation of settled law. Order of dismissal is harsh and not sustainable.

8. Learned representative for the workman has also examined the wife of the workman Smt. Manisha as AW2, who deposed that on 23.05.2014 she was not well and suffering from severe stomach pain and her husband took her to the Doctor and remained busy in taking care of her and their three years old child as they had no other person residing with them who could take care of her and their child. Due to this reason her husband could not take rest even for short time. Her husband come from night shift duty on 22.05.2014 and again when to attend his night shift duty on 23.05.2014.

9. Learned representative for the workman has argued that though the workman had admitted the charges but at the same time explained the reasons under what circumstances he went under sleep for a moment but the same was not considered in right perspective. The management takes the undue advantage of certified standing orders. The punishment inflicted by the management is harsh and did not commensurate to the gravity of charges. He relied upon citations **Arjun Kumar Biswas Versus Union of India (UOI) & Others, 1995 (1) CLR704 (Cal.); Colour-Chem Limited Versus A. L. Alaspurkar & Others, AIR1998 (SC) 948; P.S. Bagve Versus National Leather Cloth Mfg. Co. & Another, 1999 (1) CLR462 (Bom.) and Harish Chandra Tewari Versus The State of U.P., decided on 15.12.2003 by Hon'ble Allahabad High Court.** He prayed for setting aside the dismissal order and for reinstatement of the workman with continuity of service and full back wages.

10. On the other hand, learned representative for the management has examined Shri Bipin Sharma – Inquiry Officer as MW1, who deposed that he was appointed as Inquiry Officer to conduct the inquiry into the charge sheet dated 28.05.2014 issued to the workman. He sent intimation regarding holding of inquiry to the workman. The workman participated in the inquiry proceedings and he was allowed the assistance of co-worker. The workman admitted the charges levelled against him so in view of voluntary admission he was found guilty of the charges.

11. Learned representative for the management also examined Shri Anil Mangal–Assistant Manager (HR) as MW2, who deposed that the workman remained as a Learner from six months on 01.06.2010 to 30.11.2010. He applied for employment in the factory of the management *vide* his personal data form dated 30.11.2010. Copy of the same is Exhibit 'MW2/1'. Then he was appointed as Technician *vide* letter dated 01.12.2010. Copy of the same is Exhibit 'MW2/2'. The workman reported for duty as Technician on probation by submitting his joining report on 01.12.2011. Copy of which is Exhibit 'MW2/3'. Later on he was confirmed *vide* letter dated 30.11.2011, copy of which is Exhibit 'MW2/4'. A copy of Standing Orders of the company is Exhibit 'MX1/1'.

12. Learned representative for the management has argued that the management has duly examined the Inquiry Officer as MW1 who duly proved the inquiry proceedings and MW2, the Assistant Manager (HR) of the management had duly proved the appointment of the workman as Exhibit 'MW2/2 and joining report of the workman as Exhibit 'MW2/3'. He argued that the workman was found guilty of sleeping during duty hours, upon which he was issued charge sheet. His reply to the charge

sheet was considered and in order to adhere the principles of natural justice the Inquiry Officer was appointed to inquiry into the charges, who conducted a fair & proper inquiry and after affording full & fair opportunity to the workman proved the charges against the workman. The workman had voluntarily admitted the charges. He has relied upon citations **G.R. Venkateshwara Reddy Versus Karnataka State Road Transport Corporation, Bangalore & Others; 1995 (1) LLJ1011 (Kar.); State Bank of Bikaner & Jaipur Versus Nemi Chand Nalwaya; 2011(4) SCC584; General Secretary, South India Cashew Factories Workers' Union Versus The Managing Director, Kerala State Cashew Development Corporation Limited & Others, 2006(3) SCT408 (SC); Bharat Forge Company Limited Versus A.B. Zodge, 1996(2) SLR492 SC; M.L. Sinha Versus Punjab National Bank & Another, 2019 LLR 3 SC and State of U.P. & Others Versus Rama Kant Yadav; 2003(2) SCT227 SC.** He prayed for dismissal of the present industrial dispute.

13. After giving my careful consideration to the rival contentions of both the sides, I find that the workman was engaged as Learner for six months from 01.06.2016 to 30.11.2010 and thereafter he was employed as Technician on 01.12.2010 *vide* appointment letter Exhibit 'MW2/2' in pursuance of his application Exhibit 'MW2/1'. He joined his duty *vide* joining report Exhibit 'MW2/3'. He was confirmed as a Technician with effect from 01.12.2011 *vide* letter dated 30.11.2011 Exhibit 'MW2/4'. On 23.05.2014 he was found sleeping on duty and as per Standing Order No.23(II)(d) of the Certified Standing Orders of the Company Exhibit 'MX1/1' 'Sleeping on Duty is a Major Misconduct' and the punishment for the sleeping on duty has been provided therein. Sleeping on duty being grave and serious misconduct, the workman was dismissed from service as per the Certified Standing Orders of the Company. So the punishment of dismissal is proportionate to the gravity of the misconduct. Reliance is placed on citation **State of U.P. & Others Versus Rama Kant Yadav (supra)** wherein Hon'ble Supreme Court has held as under :—

"3.In our view, the charges are quite grave and having regard to the facts and circumstances, it was not proper for the High Court to interfere with the punishment inflicted upon the respondent and finding that the punishment is disproportionate to the gravity of charge is erroneous."

14. In order to meet the principles of natural justice, inquiry was held. During inquiry the workman made a statement before the Inquiry Officer and again admitted his guilt. He stated that he made the same without any pressure. He also admitted the charges as correct as contained in the charge sheet. Thereafter, the Inquiry Officer found the workman guilty of the charges as contained in the charge-sheet dated 28.05.2014, *vide* his report dated 10.06.2014. The inquiry was held in accordance with the principles of natural justice wherein reasonable procedure in holding inquiry has been followed by the Enquiry Officer. Since the inquiry is held in a fair and proper manner so the same is not liable to be vitiated and the court can not act as an appellate court and reassess the evidence led in the domestic enquiry nor interfere on the ground that another view is possible on the material on record. In this regard, citation **State Bank of Bikaner & Jaipur Versus Nemi Chand Nalwaya and General Secretary, South India Cashew Factories Workers' Union Versus The Managing Director, Kerala State Cashew Development Corporation Limited & Others (supra)** is a guiding star.

15. Further citation referred by the workman is differentiated by the management as in the citation **P.S. Bagve Versus National Leather Cloth Mfg. Co. & Another (supra)** the workman was working simply as a Helper and was found sleeping in the raw material go-down and another workman was also found sleeping who was actually to operate the machine. The disciplinary action was taken against the workman only and his services were terminated but no charge-sheet was issued to another workman who was also found sleeping. It was alleged that the action of the management is discriminatory and it amounts to unfair labour practice whereas in the case in hand, the workman was working in a responsible position

of a Technician and was found sleeping near the machines. He was charge-sheeted for a major misconduct of "Sleeping on Duty" as per the Certified Standing Orders of the Company. The domestic inquiry was held. He was found guilty of the major misconduct by the Inquiry Officer. Moreover, in the present case there is no allegation of discrimination and unfair Labour practice. Therefore, the present case cannot be equated with the cited cases. Further in citation **Harish Chandra Tewari Versus The State of U.P.** (*supra*) the petitioner was working as a Head Constable who misbehaved with his seniors. The inquiry was held and he was dismissed from services as per the U.P Police Rules 1861. In the charge-sheet it was not specified what type of misbehavior was made by the petitioner. The Hon'ble High Court of Allahabad ultimately held that that dismissal of the petitioner is not proper as it is disproportionate whereas in the case in hand, the services of the workman was to be governed as per the Certified Standing Orders of the company which prescribes list of major misconducts and sleeping on duty is one of the such major misconduct under Standing Orders No. 23(II)(d). In citation **Colour-Chem Limited Versus A.L. Alaspurkar & Others** (*supra*) the case of the workman was that his dismissal amounts to unfair labour practice and discriminatory on the ground that the other mazdoors who were also sleeping were left with a warning only whereas the respondent workman has been dismissed from service whereas in the case in hand neither an allegation of discrimination nor an allegation of unfair labour practice has been alleged nor proved.

16. In the light of discussion made above, it is held that a fair & proper inquiry has been conducted by the management before terminating the services of the workman keeping in view major misconduct committed by the workman. Accordingly, both these issues are decided against the workman and in favour of the management.

RELIEF :

17. In the light of findings on the issues above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

Dated: 23.01.2020.

(Sd.). . . .,
(ANSHUL BERRY),

Presiding Officer,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No.PB0095.

Secretary Labour,
Chandigarh Administration.

CHANDIGARH ADMINISTRATION

LABOUR DEPARTMENT

Order

The 16th March, 2020

No. 13/1/9737-HII(2)-2020/4612.—Whereas the Central Government is of the opinion that an Industrial Dispute exists between Sh. Harish Manav son of Shri Ramesh Kumar, House No. 2165-A, Sector 66, SAS Nagar (Mohali) - 160062 (Workman/Applicant) AND Dainik Bhaskar Corporation Limited, Plot No. 11-12, Sector 25, Chandigarh through its Assistant General Manager (HR) and Assistant General Manager (HR), Dainik Bhaskar Corporation Limited, Chandigarh Unit, Plot No. 11-12, Ground Floor, Sector 25, Chandigarh (Management) regarding the matters hereinafter appearing.

And Whereas the Central Government considers it, desirable to refer the dispute for adjudication.

Now, therefore in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Dispute Act, 1947, read with Government of India, Ministry of Labour's Notification No. S-11025/9/96-IR(PL), dated the 24th Feb, 1997 and as per the directions of the Hon'ble Supreme Court of India, under The Working Journalists And Other Newspaper Employees (Conditions of Service) And Miscellaneous Provision Act, 1955 and in compliance of the orders dated 28.04.2015, 12.01.2016, 14.03.2016, 23.08.2016 passed by the Hon'ble Supreme Court of India in CCP No. 128/2015 and 129/2015 AND WP (Civil) 246/2011, dated 07.02.2014. Now, as per Section 17(2) of the *ibid* Act, the undersigned hereby refers the matter specified below to the Industrial Tribunal-cum-Labour Court, Union Territory, Chandigarh, for adjudication :—

“Whether the arrears of revision of pay to Sh. Harish Manav son of Shri Ramesh Kumar, House No. 2165-A, Sector 66, SAS Nagar (Mohali)-160062 (Workman/Applicant) were to be paid by M/s Dainik Bhaskar Corporation Limited, Plot No. 11-12, Sector 25, Chandigarh through its Assistant General Manager (HR) and Assistant General Manager (HR), Dainik Bhaskar Corporation Limited, Chandigarh Unit, Plot No. 11-12, Ground Floor, Sector 25, Chandigarh (Managements) according to the recommendations of the Majithia Wage Board and also as per the direction of the Hon'ble Supreme Court of India under The Working Journalists And Other Newspaper Employees (Conditions of Service) And Miscellaneous Provision Act, 1955 and in compliance of the orders dated 28.04.2015, 12.01.2016, 14.03.2016, 23.08.2016 passed by the Hon'ble Supreme Court of India in CCP No. 128/2015 and 129/2015 AND WP (Civil) 246/2011 dated 07.02.2014; if so, to what effect and to what relief he is entitled to, if any ?”

AJOY KUMAR SINHA, IAS,

Chandigarh :
The 4th March, 2020.

Secretary Labour,
Chandigarh Administration.

CHANGE OF NAME

I, Sitara, w/o Hasmat Ali, r/o # 119/1-C, Village Raipur Khurd, Chandigarh, have changed my name from Sitara to Shabnam.

[167—1]

I, Monti, s/o Shri Sukhrula, r/o # 389, Housing Board Complex, Dhanas, Chandigarh, have changed my name to Mumtaj.

[168—1]

I, Vipin, s/o Sh. Sohan Pal, r/o House No. 5217/1, MHC, Manimajra, Chandigarh, have changed my name to Vipin Singh.

[169—1]

I, Munish Kumar, s/o Ram Lal Jangra, # 3265, First Floor, Pency Resident Society, Sector 44-D, Chandigarh, changed my name Munish Jangra.

[170—1]

I, Siddharth Kansal, s/o Sanjay Kansal, r/o House No. 3132, Sector 28-D, Chandigarh, have changed my name to Siddharath Kansal.

[171—1]

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